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December 14, 2023

VIA ECF

The Honorable Andrew L. Carter, Jr.
United States District Court, Southern District of New York
40 Foley Squire, Room 432
New York, New York 10007

MEMO ENDORSED

Re: Matteo Digrigoli, et al. v. TD Bank, N.A., et al.,
Case No.: 1:23-CV-03165 (ALC)

Dear Judge Carter:

This firm represents Defendants TD Bank, N.A., Jenai R. Lluvera, Alexis Anderson, and Patricia C. Dammons (collectively referred to as “Defendants”) in the above-referenced case. Pursuant to Rule 1(D) of Your Honor’s Individual Rules, we submit this letter request for an extension of time to file Defendants’ anticipated motion to dismiss Plaintiffs’ Complaint (“Compl.”) pursuant to Fed. R. Civ. P. 12(b)(6).

On November 17, 2023, Your Honor granted Defendants’ request to file a motion to dismiss. [DE# 30]. Pursuant to the Order, Defendants’ deadline to file the motion to dismiss is set for December 18, 2023, Plaintiffs’ opposition is due on January 18, 2024, and Defendants’ reply is due February 1, 2024.

Concurrently, this matter has been referred to the S.D.N.Y.’s Alternative Dispute Resolution Program and *pro bono* counsel was appointed for the Plaintiffs for the limited representation in the program. On October 26, 2023, Susanne Toes Keane, Esq., filed her limited appearance on behalf of the Plaintiffs. [DE# 24].

On December 5, 2023, the parties held a pre-mediation conference with Court Appointed Mediator Susanna Mancini to discuss scheduling of the mediation. The parties agreed to hold the mediation on February 6, 2023 and that date was thereafter accepted by the Court. Attorney Keane represented that her calendar was full in December and January and would not be able to get up to speed until February.

Defendants’ respectfully request that the new deadline for Defendants to file its motion to dismiss be extended until February 27, 2024, to allow the parties an opportunity to resolve this matter at the mediation. This is the first request for an extension of time for this deadline.

Defendants propose the following revised briefing schedule:

Motion to Dismiss: February 27, 2023
Plaintiff’s Opposition: March 26, 2024
Reply (if any): April 9, 2024

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Defendants are unable to confirm the pro se Plaintiffs position on this request as undersigned counsel was unable to reach them via telephone to discuss prior to filing this request. The general request was discussed however with pro bono counsel representing Plaintiffs in a limited capacity for the purposes of the mediation, including Defendants' intention to seek such an appropriate extension given the delayed ability to schedule the mediation.

Respectfully submitted,

/s/

Elizabeth R. McKenna

cc: Susanne Toes Keane, Esq

SO ORDERED:

HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE

Dated: December 15, 2023
New York, NY